

THE GUJARĀT TALUQDĀRS' ACT, 1888.

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BOMBAY ACT No. VI OF 1888.¹

[THE GUJARAT TALUQDARS' ACT, 1888.]

[25th March, 1889.]

Repealed in part by Act 16 of 1895.

Repealed in part and amended, by Bom. 4 of 1913.

Amended by Bom. 2 of 1905.

Amended by Bom. 1 of 1910.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the Revenue Administration of Estates held by certain superior landholders in the districts of Ahmedabad, Kaira, Broach and the Panch Mahals, and to limit the further operation of Bombay Act VI of 1862.

Bom. V of 1879. WHEREAS it is expedient to remove doubts as to the applicability of certain portions of the Bombay Land Revenue Code, 1879, to estates held by certain superior landholders in the districts of Ahmedabad, Kaira, Broach and the Panch Mahals, and to make special provision for the revenue administration of the said estates and for the partition thereof; It is enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the Gujarat Taluqdars' Act, 1888. Short title.
 (2) It extends only to the districts of Ahmedabad, Kaira, Broach and the Panch Mahals.

2. (1) In this Act, unless there be something repugnant in the subject or Definitions. context,—

(a) "taluqdār" includes a thākūr, mehwāssī, kāsbāti and naik ²[and a mulgāmetī who holds land directly from ³[the Crown]];

(b) "registered taluqdār" means a sole taluqdār, or the eldest or principal of several co-sharers of a taluqdārī estate, whose name is authorizedly entered in the Government records as holding such estates, or as the representative of the several co-sharers holding the same;

(c) "jamā" means land-revenue payable by a taluqdār to ⁴[the Provincial Government];

(d) "alienation" means a transfer of ownership, and "alienee" means a person to whom ownership is transferred;

(e) "incumbrance" includes a mortgage, charge, usufructuary grant and any interest other than that of an ordinary tenant or of an alienee or taluqdār, and "incumbrancer" means a person in whom an incumbrance vests;

Bom. V of 1879. (f) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code. Expressions defined in the Bombay Land Revenue Code.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1885, Pt. V, p. 65; for Report of Select Committee, see *ibid.*, 1888, p. 337; and for Proceedings in Council see *ibid.*, 1886, p. 85, and *ibid.*, 1888, pp. 374 and 385.

² These words were added by s. 2 (1) of the Gujarat Taluqdars (Amendment) Act, 1905 (Bom. 2 of 1905), and the amendment is to be deemed to have come into force on the 25th March 1889: *ibid.*, s. 2 (2), but see footnote to s. 31, *infra*.

³ The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

⁴ The words "the Provincial Government" were substituted for the word "Government", *ibid.*

Meaning of
" taluqdar "
in Part II.

(2) In Part II, unless there be something repugnant in the subject or context, " taluqdar " includes any class of holders of unalienated estates, upon which the land-revenue is fixed by a lump assessment, to whom the ¹[Provincial Government] deems fit from time to time, by notification in the ²[Official Gazette], to extend the provisions of the said part.

3. [Repeal of part of s. 114, Bombay Act V of 1879.] Rep. Act XVI of 1895.

PART II.

SURVEY AND SETTLEMENT.

Revenue Survey.

Provincial
Government
may direct
survey of
a taluqdari
estate.

4. It shall be lawful for the ¹[Provincial Government], whenever it may seem expedient, to direct a revenue-survey or a revised revenue-survey of any taluqdari estate, under the provisions of the Bombay Land Revenue Code, 1879, applicable to such surveys.

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1879.

Settlement Register.

Settlement
register of
a taluqdari
estate what
to contain.

5. The settlement register prepared by the Survey-officer under section 108 of the said Code on the occasion of making any such survey shall, unless ³[the Provincial Government] otherwise direct, contain, in lieu of the particulars specified in the said section, the following particulars (namely) :—

- (a) the area and assessment of each survey-number ;
- (b) the name of the registered taluqdar, and, if there are co-sharers, the name of each co-sharer and the extent of each one's interest in the estate ;
- (c) if the estate is undivided,—
 - (i) the manner in which the profits derived from sources common to the co-sharers are to be distributed amongst them ;
 - (ii) the share to be contributed by each co-sharer of the jama, of police charges, of the cost of erecting and maintaining boundary-marks, and of any other charge to which under any law for the time being in force the co-sharers are liable in common ;
 - (iii) the manner in which the co-sharers are to collect from the tenants ;
- (d) if a partition of the estate has been effected and the co-sharers hold their respective shares in severalty—
 - (i) the extent and limits of each separate share ;
 - (ii) the same particulars in respect of the several sub-sharers, if any, of each such share, as are required to be given concerning all the co-sharers when an estate is undivided ;
- (e) the name and description and the nature and extent of the interest of every alienee and of every incumbrancer of the estate or any portion thereof, together with a specification of—
 - (i) the aggregate area over which such interest extends ;
 - (ii) the amount and nature of rent, or land-revenue, if any, payable or receivable by each alienee and incumbrancer ;

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The words " Official Gazette " were substituted for the words " Bombay Government Gazette ", *ibid.*

³ The words " the Provincial Government " were substituted for the word " Government ", *ibid.*

- (iii) the basis of such interest, whether grant, contract, custom or other ;
- (iv) the conditions of service or other conditions on which such interest depends ;
- (v) any other particulars which ¹[the Provincial Government] shall from time to time direct.

Determination of Disputes.

6. (1) If it appears to the Survey-officer who frames the said register that there exists any dispute as to any matter which he is bound under this Act to record therein, he may, either on the application of any of the disputant parties, or of his own motion, investigate and determine such dispute and frame the register accordingly. Disputes concerning matters which have to be recorded under section 5 to be determined by Survey-officer.
- (2) Provided that, when any such dispute shall appear to the Survey-officer to have been already finally decided by a court of competent jurisdiction, the entry in the said register shall be made in conformity with such decision.

Custody and Amendment of Records.

7. (1) When the survey-settlement of a taluqdari estate is completed, the said register and the other records thereof shall be kept by the Collector, and every registered taluqdar shall be entitled to receive one copy of the register free of any charge except the cost of copying. Settlement records by whom to be kept ; and
- (2) So long as the said register and other records are in the charge of the Survey-officer, the said officer, and afterwards the Collector, shall cause to be entered therein all changes that occur, and everything that affects any of the rights or interests therein recorded ; and shall at any time correct or cause to be corrected any clerical error therein and also any other error which all the parties interested admit to have been made in the same. to be from time to time corrected.
8. (1) No suit shall lie against ²[the Crown] or against any officer of ²[the Crown] to set aside any decision or order of a Survey-officer or of a Collector under section 6 or 7. Bar of suits against the Crown, etc., to set aside decisions under section 6 or 7 ; but effect to be given to decrees obtained by parties *inter se*.
- (2) But the said register and other records shall from time to time be amended by the Survey-officer, or, when the survey-settlement is completed by the Collector, in accordance with any final decree of a court of competent jurisdiction which the parties may obtain *inter se* on an application accompanied by a certified copy of such decree, being duly made to the Survey-officer or Collector for that purpose.
- (3) In any suit in a civil court between the parties or persons claiming under them, a decision or order of a Survey-officer or Collector under section 6 or 7 shall not be held to be conclusive as to any matter therein decided.

- 9: Every change in the said register and other records shall be communicated without delay by the officer making it to each of the parties affected thereby. Changes in records to be communicated to parties affected thereby.

PART III.

PARTITION.

10. (1) Every person who has obtained a final decree of a court of competent jurisdiction declaring him to be entitled to a share of a taluqdari estate and every co-sharer whose name is recorded, as such, in the settlement register prepared in Persons entitled to Partition.

¹ The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

² The words " the Crown " were substituted for the word " Government ", *ibid*.

accordance with section 5 and pending the preparation of the said register, every person whose title to any such share as aforesaid is not disputed by any other person claiming a share in the same estate, shall be entitled to have his share divided from the rest of the estate and to hold the same as a separate estate.

(2) Any two or more such co-sharers or persons shall be entitled to have their shares divided from the rest of the estate and to hold the same jointly as a separate estate.

Applications for partition to whom to be made.

11. Applications for partitions shall be made to the Taluqdari Settlement-officer or to such other officer as the ¹[Provincial Government] appoints in this behalf.

Notification of application.

12. (1) The Taluqdari Settlement-officer, or other officer aforesaid, on receiving an application for partition, shall, if the application be not open to objection on the face of it, publish a notification of the same in the office of the Mamlatdar of the Taluka and at some conspicuous place in the village in which the estate to which the application relates is situate or in each of the villages comprised in the said estate, as the case may be.

Notice to co-sharers not joining in the application.

(2) He shall also serve a notice on each of the known co-sharers who has not joined in the application, requiring any of them who objects to the partition to appear before him to state his objection either in person or by a duly authorised agent, on a day to be specified in the notice, not less than thirty or more than sixty days from the date on which such notice is issued.

Procedure where notice cannot be personally served on co-sharer.

13. Where, from any cause, notice cannot be personally served on any co-sharer, the Taluqdari Settlement-officer or other officer aforesaid shall order the same to be served by affixing a copy thereof upon some conspicuous part of the house, if any, in which such co-sharer is known to have last resided, or in such other manner as the Taluqdari Settlement-officer or other officer aforesaid thinks fit.

Power to refuse partition when objection is admitted.

14. If, on or before the day specified, any objection is made to the partition by any sharer, and the Taluqdari Settlement-officer or other officer aforesaid, on a consideration of such objection, is of opinion that there is any good and sufficient reason why the partition should be disallowed, he may refuse the application, recording the grounds of his refusal.

Procedure if question of title is raised.

15. (1) If the objection raises any question as to the right of the applicant to partition or any other question of title which has not been already determined by a court of competent jurisdiction, the Taluqdari Settlement-officer or other officer aforesaid may either decline to grant the application until the question in dispute has been determined by a competent court, or, if no suit is at the time pending in any such court in which the question is likely to be determined, may proceed to inquire into the merits of the objection.

Decision when and how to be made by Taluqdari Settlement-officer or officer appointed by Provincial Government.

(2) In the latter case, the Taluqdari Settlement-officer or other officer aforesaid, after making the necessary inquiry and taking such evidence as may be adduced, shall pass a decision declaring the nature and extent of the interests of the party or parties applying for the partition and of the other co-sharers of the estates, if any, and directing by whom and in what proportion the costs of the inquiry and of the partition (which shall be recoverable as an arrear of land-revenue) are to be paid.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

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of
1882.

(3) The procedure to be observed by the Taluqdari Settlement-officer or other officer aforesaid in any such inquiry shall be that laid down by the ¹Code of Civil Procedure, 1882, for the trial of original suits, and the provisions of Chapter XLVII of that Code, in so far as they apply to a review of judgment in an original suit shall be applicable to the decision of the Taluqdari Settlement-officer or other officer aforesaid. The Taluqdari Settlement-officer or other officer aforesaid may, with the consent of the parties, refer any question arising in such inquiry to arbitration, and the provisions of the same Code relative to arbitrators shall apply to such references.

Procedure
previous to
decision.

16. (1) An appeal shall lie from any decision, or from any part of a decision, passed under the last preceding section by the Taluqdari Settlement-officer or other officer aforesaid, to the District Court, as if such decision were a decree of a court from whose decisions the District Court is authorized to hear appeals.

District
Court may
hear appeal
from Taluq-
dari Settle-
ment-officer's
or other
officer's
decision
and may stay
partition.

(2) Upon such appeal being made, the District Court may issue a precept to the Taluqdari Settlement-officer or other officer aforesaid, requiring him to stay the partition pending the decision of the appeal.

17. (1) When it has been decided to make a partition, the Taluqdari Settlement-officer or other officer aforesaid shall give the parties the option of making the partition themselves; in the event of their not agreeing or of their failing to make the partition, within a period prescribed by the Taluqdari Settlement-officer or the officer aforesaid in this behalf, the Taluqdari Settlement-officer or other officer aforesaid shall either make it himself or, if he thinks fit, shall entrust it to arbitrators appointed for this purpose by the parties.

Partition
how to be
effected.

(2) In making the partition, the Taluqdari Settlement-officer or other officer aforesaid and any person acting under his orders shall have the same powers to enter on the estate under partition, for marking out the boundaries, surveying the land and other purposes as are conferred on Survey-officers by the Bombay Land Revenue Code, 1879.

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18. (1) When the partition is completed the Taluqdari Settlement-officer or other officer aforesaid shall make an order confirming it.

When par-
tition is
complete,
order to be
made con-
firming it.

(2) On making such order the Taluqdari Settlement-officer or other officer aforesaid shall publish a notification of the fact in the office of the Mamlatdar of the taluka and at some conspicuous place in the village in which the estate which has been divided is situate, or in each of the villages comprised in the said estate, as the case may be; and the partition shall take effect on and from the first day of June next after the date of such notification, or such other date next after the date of such notification between the first day of June and the first day of October as the Taluqdari Settlement-officer or other officer aforesaid, having regard to the usual season of cultivation in the said estate, shall fix in this behalf.

Notification
of order.

Partition
when to take
effect.

19. (1) If necessary the Taluqdari Settlement-officer or other officer aforesaid may, at any time after the date aforesaid, order delivery of the share, or any portion of the share, allotted to any co-sharer to be made to him in the manner in which delivery of the same might be ordered by a civil court, under the ¹Code of Civil Procedure, 1882, in execution of a decree.

Delivery of
possession.

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of
1882.

¹ See New Act 5 of 1908.

Resistance or obstruction how to be dealt with.

(2) If, in executing the order of the Taluqdari Settlement-officer or other officer aforesaid, the officer charged with the execution thereof is resisted or obstructed by any person, or if a co-sharer is resisted or obstructed in obtaining possession of the share or of any portion of the share allotted to him, the Taluqdari Settlement-officer or other officer aforesaid shall proceed in the manner in which, by section 202 of the Bombay Land Revenue Code, 1879, a Collector is authorized to proceed for the purpose of inquiring into the reasonableness of any resistance or obstruction to the execution of an order made under that section and of preventing the continuance thereof. ^{Bom. V of 1879.}

Appeals against order confirming partition to the Commissioner.

20. An appeal against the decision of the Taluqdari Settlement-officer or other officer aforesaid confirming a partition shall lie to the Commissioner within one year from the date of the order confirming such partition.

Civil courts barred from entertaining suits or applications for partition.

21. No civil court shall entertain any suit or application for partition of taluqdari estate: provided that nothing in this section shall be deemed to affect the jurisdiction of Her Majesty's High Court of Judicature at Bombay.

PART IV.

REVENUE ADMINISTRATION.

Taluqdar's Jama.

Taluqdar's jama how to be calculated.

22. (1) If a taluqdar's estate, or any portion thereof, is not wholly or partially exempt from land-revenue and its liability to payment of land-revenue is not subject to special conditions or restrictions, the jama payable to ¹[the Provincial Government] in respect of such estate or portion thereof shall, if a survey-settlement has been extended thereto, be the aggregate of the survey-assessments of the lands composing such estate or such portion thereof, minus such deduction, if any, as ¹[the Provincial Government] shall in each case direct.

(2) The ²[Provincial Government] may declare the amount of jama so ascertained fixed for any term not exceeding thirty years.

Saving of existing agreements and settlements as to amount of jama.

23. (1) Nothing in this Act shall be deemed to affect the validity of any agreement heretofore entered into by or with a taluqdar and still in force as to the amount of his jama nor of any settlement of the amount of jama made by or under the orders of ¹[the Provincial Government] for a term of years and still in force.

(2) Every such agreement and settlement shall have effect as if this Act had not been passed.

Responsibility for jama.

24. (1) The registered taluqdar shall be primarily responsible to ¹[the Provincial Government] for the jama of his village, and, if there are sharers, all the co-sharers shall be jointly and severally responsible therefor.

Liability of other persons if taluqdar makes default.

(2) If the registered taluqdar fails to pay the jama according to the rules legally prescribed in that behalf, it may be recovered from his co-sharers, if any

¹ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

² The words "the Provincial Government" were substituted for the word "Government" by the *ibid.*

or to the extent to which it is due in respect of the holding of any mortgagee in possession, inferior holder or person in actual occupation of the estate or of any portion thereof, from such mortgagee in possession, inferior holder or person.

(3) When jama is recovered from any such co-sharer, mortgagee in possession, inferior holder or other person, he shall be allowed credit for all payments which he may have made to the taluqdar at or after the prescribed or usual times of such payments, and he shall be entitled to credit in account with the taluqdar for the amount recovered from him. Credit to be allowed for recoveries made from other persons.

25. (1) When a partition has taken place and a taluqdari estate is held in severalty, the jama payable in respect of each separate portion into which the same has been divided shall be determined by the Collector, and thereupon each such portion shall, for the purposes of the last preceding section, be deemed to be a distinct estate. Distribution of jama in case of partition.

(2) Provided that the aggregate jama payable in respect of the several portions into which the estate has been divided shall not exceed the jama which would be leviable from the entire estate if still undivided.

Management of taluqdar's estates by Provincial Government officers.

26. (1) If owing to disputes among the sharers in any taluqdari estate, or for other cause, the ¹[Provincial Government] shall deem that there is reason to apprehend danger to the peace of the country or injury to the well-being of the inferior holders, ²[it] may direct the Collector to cause such estate to be attached and taken under the management of himself or any agent whom he appoints for this purpose; and, on the application of any registered taluqdar or co-sharer, the Collector shall furnish him with a copy of the reasons on which the orders of ³[the Provincial Government] were passed. Management of taluqdari estate may be assumed by Collector in certain contingencies.

(2) When any estate is so attached and taken under management, the sharers, or any one or more of the sharers therein, may at any time apply to the District Magistrate to restore the management thereof; and, if the applicants shall prove to the satisfaction of the District Magistrate that no reason for any such apprehension as aforesaid any longer exists, the District Magistrate may order restoration of the management to be made to the taluqdar.

27. (1) With the sanction of the Commissioner, the Taluqdari Settlement-officer or other officer ⁴appointed by ³[the Provincial Government] may hold the estate in which partition is being effected under his own management, pending the completion of the partition. Power to take up management of estate pending partition.

(2) Provided that, before applying to the Commissioner for sanction under this section, the Taluqdari Settlement-officer or other officer aforesaid shall give to the parties reasonable notice of his intention so to do, and shall forward, with his application, for the Commissioner's consideration, any written statement of objection thereto which any of the parties shall present to him for this purpose.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The word "it" was substituted for the word "he", *ibid*.

³ The words "the Provincial Government" were substituted for the word "Government", *ibid*.

⁴ For notification appointing the Collector of the Panch Mahals to exercise powers under the section, see Bombay Local Rules and Orders.

Power to
take up
management
of estate at
taluqdar's
request.

28. ¹[(1)] With the sanction of ²[the Provincial Government], the Taluqdari Settlement-officer or any other officer ³appointed by ²[the Provincial Government] for this purpose may, upon the written application of a taluqdar in this behalf, take charge of such taluqdar's estate and keep the same under his management for such period as may be agreed upon.

⁴[(1A) Any co-sharer of a taluqdar estate, other than a co-sharer in a family undivided according to Hindu law, may make an application under sub-section (1) in respect of his own share in such estate.]

¹[(2) ⁵[In every case where a taluqdari estate is held by co-sharers in a family undivided according to Hindu law or otherwise] an application signed by co-sharers holding an aggregate interest of not less than three-fourths of the whole estate shall, for the purposes of sub-section (1), be deemed to be an application by a taluqdar in respect of ⁶[the whole estate]; provided, *firstly*, that no sanction shall be given ⁷[on any such application] under sub-section (1) where it appears to the ⁸[Provincial Government] doubtful whether the aggregate interest of the co-sharers signing ⁹[the] application amounts to three-fourths of the whole estate; and provided, *secondly*, that nothing in this Act shall be deemed to prevent any co-sharer other than those signing any such application from obtaining partition of his share.]

Applicability
of section
160 of
Bombay Act
V of 1879
when an
estate is
taken under
management
by a
Government
officer.

29. (1) When any taluqdari estate is taken under management by Government officers under any of the three last preceding sections, the provisions of section 160 of the Bombay Land Revenue Code, 1879, shall be applicable thereto.

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(2) Provided that no ¹⁰[transfer] or agreement entered into by a Government officer managing an estate under section 26, in respect of any land in such estate, shall be for a period exceeding five years from the date thereof, and that no such ¹⁰[transfer] or agreement by a Government officer managing an estate under section 27 shall have effect beyond the end of the revenue-year in which such officer's management determines, unless the same is ratified by the co-sharer to whose share the said land is finally allotted when the partition of the estate is completed.

Disposal of
surplus
receipts.

(3) All surplus receipts, if any, which accrue during such management, after defraying the costs of the management, including the payment of the current land-revenue and of all arrears thereof, and the cost of the extension to the estate of

¹ S. 28 was re-numbered as sub-section (1), by s. 3 (1) of the Gujarat Taluqdars (Amendment) Act, 1905 (Bom. 2 of 1905), and sub-section (2) and the provisos were substituted for the concluding words and proviso of s. 28 by s. 3 (2) of the same Act.

These words and the proviso were as follows:—

"between the Taluqdar and the Taluqdari Settlement-officer or other officer as aforesaid: Provided that no such application shall be entertained in respect of an undivided share of a Taluqdari estate nor, except with the consent of all the co-sharers, in respect of an estate which is held by co-sharers".

² The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

³ For notification appointing the Collector of the Panch Mahals to exercise powers under the section, see Bombay Local Rules and Orders.

⁴ This sub-section was inserted by s. 2 and First Schedule of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

⁵ These words were substituted for the words "Where a taluqdari estate is held by co-sharers in undivided shares" by s. 2 and First Schedule of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

⁶ These words were substituted for the words "such estate", *ibid.*

⁷ These words were inserted, *ibid.*

⁸ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

⁹ This word was substituted for the words "any such" by s. 2 and First Schedule of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

¹⁰ This word was substituted for the words "sale of occupancy rights" by s. 93 of the Bombay Land Revenue (Amendment) Act, 1913 (Bom. 4 of 1913).

a revenue-survey, if the ¹[Provincial Government] directs, or has before directed, the extension of a revenue-survey thereto under section 4, shall be divided amongst the co-sharers in proportion to their respective shares, at such periods as the Taluqdari Settlement-officer or other officer aforesaid shall see fit.

²[29A. (1) Except with the approval of the managing officer, a taluqdar whose estate is taken under management by Government officers under section 26 or 28 shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability; and no suit shall be brought in any civil court whereby to charge any such taluqdar upon any promise made after the determination of such management to pay any debt contracted during the period of such management, or upon any ratification, made after such determination, of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification.

Disabilities of a taluqdar whose estate is taken under management.

(2) Nothing in sub-section (1) shall be deemed to affect the capacity of any such taluqdar to enter into a contract of marriage :

Provided that no such taluqdar shall incur, in connection with such a contract, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the managing officer may, in writing, declare to be reasonable.

(3) On the death of any such taluqdar,—

(a) where the succession to his property or any part thereof is disputed the managing officer may, with the sanction of the ¹[Provincial Government], either retain the superintendence of the property until one of the claimants has established his claim to the same in a competent civil court, or institute a suit of interpleader against all the claimants; and

Power to continue management after death, in case of disputed succession, and where property still incumbered.

(b) where his property is still incumbered with debts and liabilities, the managing officer may, with the sanction of the ¹[Provincial Government], retain the said property under his superintendence until such debts and liabilities have been discharged.]

Ascertainment and liquidation of liabilities of taluqdars whose estates are taken under management.

³[29B. (1) Where any taluqdari estate has been taken under management by Government Officers under section 26 or 28, the managing officer may publish in the ⁴[Official Gazette], and in such other manner as the ¹[Provincial Government] may by general or special order direct, a notice, in English and also in the vernacular, calling upon all persons having claims against such taluqdar or his property, to submit the same in writing to him within six months from the date of the publication of the notice.

Publication of notice to claimants against taluqdar whose estate is taken under management.

(2) Where the managing officer is satisfied that any claimant was unable to comply with the notice published under sub-section (1), he may allow his claim to be submitted at any time after the date of the expiry of the period fixed therein ;

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² This section was inserted by s. 4 of the Gujarat Taluqdars' (Amendment) Act, 1905 (Bom. 2 of 1905).

³ Section 29B was inserted by s. 4 of the Gujarat Taluqdars' (Amendment) Act, 1905 (Bom. 2 of 1905).

⁴ The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by the Adaptation of Indian Laws Order in Council.

but any such claim shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of such period until submission.

(3) Every claim against such taluqdar or his property (other than a claim on the part of ¹[the Provincial Government] not submitted to the managing officer in compliance with the notice published under sub-section (1) or allowed to be submitted under sub-section (2), shall, save in the cases provided for by section 29F, sub-section (2), clause (c), and by sections 7 and 13 of the ²Indian Limitation Act, 1877, be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged, unless in any suit or proceeding instituted by the claimant, or by any person claiming under him, in respect of any such claim, it is proved to the satisfaction of the Court that he was unable to comply with the notice published under sub-section (1).] ^{XV of 1877.}

Claimants to furnish full particulars and documents.

³[29C. (1) The managing officer may by written order require that any claimant submitting his claim in compliance with the notice published under section 29B, sub-section (1), shall, within such reasonable time as he may prescribe in such order, furnish full particulars thereof, and produce all documents (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document :

Provided that, where the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the managing officer a certified copy of the decree and a certificate from the court which passed or is executing the same declaring the amount recoverable thereunder, or a true copy of the award and a statement of the sum recoverable thereunder, as the case may be ; and, where the claim is pending adjudication in any court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy, of the plaint or a true copy of the reference to arbitration, as the case may be.

(2) The managing officer shall, after marking, for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the claimant.

(3) Where any document, which is in the possession or under the control of a claimant, is not produced by him in accordance with an order under sub-section (1), the document shall not be admissible in evidence against the taluqdar whose estate is taken under management, whether during the continuance of the management or afterwards, in any suit brought by such claimant or by any person claiming under him, in respect of any claim to which such document relates, unless it is proved to the satisfaction of the court that it was not within his power to produce such document as required by such order.]

Investigation and decision of claims.

³[29D. (1) On receipt of all claims submitted in compliance with the provisions of sections 29B and 29C, the managing officer shall proceed to investigate such claims and shall decide, subject to the provisions of sub-section (3), which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate his decision in writing to each claimant concerned.

(2) Where the managing officer has admitted any claim under sub-section (1), he may make to the claimant a proposal in writing for the reduction of the claim, or of the rate of interest to paid in future or of both ; and if such proposal, or any

¹ The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of India Laws Order in Council.

² See now the Indian Limitation Act, 1908 (9 of 1908), Central Acts.

³ Sections 29C and 29D were inserted by s. 4 of the Gujarat Taluqdars' (Amendment) Act, 1905 (Bom. 2 of 1905).

modification of it, is accepted by the claimant, and his acceptance is finally recorded and attested by the managing officer or by any Revenue-officer not below the rank of an Assistant or Deputy Collector whom the ¹[Provincial Government] may, by general or special order, appoint in this behalf, it shall be conclusively binding upon the claimant :

Provided that if, when the management is withdrawn, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (1), as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a civil court for the recovery of a claim, against a taluqdar whose estate is taken under management or his property, which has been duly submitted to the managing officer :

Provided that no decision of the managing officer under this section shall be proved in any such suit as against the defendant.]

Management of taluqdar's estates by Government officers.

²[29E. (1) On the publication of a notice under section 29B, sub-section (1), no proceeding in execution of any decree against the taluqdar whose estate is taken under management or his property shall be instituted or continued until the decree-holder files a certificate from the managing officer that the decree-claim has been duly submitted, or until the expiration of one month from the date of receipt by the managing officer of a written application for such certificate, accompanied by a certified copy of the decree. Execution of decrees to be stayed till certificate filed.

(2) Any person holding a decree against such taluqdar or his property shall be entitled to receive from the managing officer, free of cost, the certificate required by sub-section (1).

(3) In computing the period of limitation prescribed by the ³Indian Limitation Act, 1877, or by section 230 of the ⁴Code of Civil Procedure for any application for the execution of a decree, proceedings in which have been stayed or temporarily barred by reason of the claim not having been duly submitted, the time from the date of the notice published under section 29B, sub-section (1), or of the decree if it was passed subsequently to the publication of the notice, to the date of due submission shall be excluded.]

²[29F. (1) When all claims have been investigated under section 29D, the managing officer shall submit to the ¹[Provincial Government] a schedule of the debts and liabilities of the taluqdar whose estate is taken under management, and the ¹[Provincial Government] may where the property appears to be involved beyond all hope of extrication, or for any other sufficient reason, by order published in the ⁵[Official Gazette] direct that, on a date to be fixed by the order, the management of such estate shall be withdrawn. Report to Provincial Government.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² Section 29E and 29F were inserted by s. 4 of the Gujarat Taluqdars' (Amendment) Act, 1905 (Bom. 2 of 1905).

³ See now the Indian Limitation Act, 1908 (Act 9 of 1908), Central Acts.

⁴ See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

⁵ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

(2) On the date so fixed—

(a) the management shall terminate ;

(b) the owner of such estate shall be restored to the possession thereof, subject to any contracts entered into by the managing officer for the preservation or benefit thereof ; and

(c) the claims referred to in section 29B, sub-section (3), shall revive.

(3) In calculating the periods of limitation applicable to suits to recover and enforce claims revived under sub-section (2), clause (c), the time during which the management has continued shall be excluded.]

Application of provisions of the Bombay Court of Wards Act, 1905.

Application of the Bombay Court of Wards Act, 1905, when Taluqdari Settlement officer appointed to be a Court of Wards.

¹[29G. On the issue of a notification under clause (c) of the proviso to section 3 of the Bombay Court of Wards Act, 1905, appointing the Taluqdari Settlement-officer to be a Court of Wards for the whole or any part of the area to which this Act extends, the provisions of the said Bombay Court of Wards Act, 1905, shall, without prejudice to, and save so far as they may be inconsistent with, anything contained in this Act, be deemed to apply to, or in respect of, any estate, which may thereafter be taken under the management of the said Taluqdari Settlement-officer under section 26 or 28, as if it were an estate under his superintendence as such Court of Wards, and the taluqdar whose estate is taken under management a Government ward within the meaning of that Act.] Bom. 1905.

Police-officers and establishment.

Provincial Government to fix the number and remuneration of police.

30. (1) The ²[Provincial Government] may from time to time determine—

(a) what Police-officers and establishment are requisite in each village in a taluqdari estate ;

(b) by whom and under what conditions the Police-officers and establishment shall be appointed, punished and dismissed ;

(c) what remuneration shall be paid to each Police-officer and member of the police-establishment.

Police charges how recoverable.

(2) Charges on account of police shall be defrayed by the taluqdar at such times as shall from time to time be determined by ³[the Provincial Government], and in the event of failure by the taluqdar to pay, at the time when the same becomes due, any sum so payable, the said sum shall be recoverable from him, in addition to the jama as if the same were a part of the jama.

(3) If a partition has taken place and the estate is held in severalty, the said charges shall be payable by, and recoverable from, the holders of the various portions into which the estate has been divided in proportion to their respective shares in the estate.

¹ Section 29G was inserted by s. 4 of the Gujarat Taluqdars' (Amendment) Act, 1905 (Bom. 2 of 1905).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ The words "the Provincial Government" were substituted for the word "Government", *ibid*.

PART V.

MISCELLANEOUS.

131. (1) No incumbrance on a taluqdar's estate, or on any portion thereof, made by the taluqdar after this Act comes into force, shall be valid as to any time beyond such taluqdar's natural life unless such incumbrance is made with the previous written consent of the Taluqdari Settlement-officer, or of some other officer, appointed by the ²[Provincial Government] in this behalf ³[and after the death of a taluqdar no proceeding for the attachment, sale or delivery of, or any other process affecting the possession or ownership of, a taluqdar's estate, or any portion thereof, in execution of any decree obtained against such taluqdar or his legal representative, except a decree obtained in respect of an incumbrance made with such consent as aforesaid, or made before this Act comes into force, shall be instituted or continued except with the like consent].

Bar of incumbrances on a taluqdar's estates beyond taluqdar's own life, except with consent of the Taluqdari Settlement officer ;

(2) No alienation of a taluqdar's estate or of any portion thereof, or of any share or interest therein, made after this Act comes into force, shall be valid, unless such alienation is made with the previous sanction of the ²[Provincial Government], which sanction shall not be given except upon the condition that the entire responsibility for the portion of the jama and of the village expenses and police-charges due in respect of the alienated area shall thenceforward vest in the alienee and not in the taluqdar.

and of all alienations except with consent of Provincial Government.

32. (1) No consent or sanction given under the last preceding section shall be deemed to affect any right of ⁴[the Crown] under section 3 of Bombay Act VII of 1863 (*an Act for the Summary Settlement of claims to exemption from the payment of Government land-revenue and for regulating the terms upon which such exemption shall be recognized in future, in those parts of the Bombay Presidency which are not subject to the operation of Act XI of 1852 of the Council of India*).

Saving of rights of the Crown under section 3 of Bombay Act VII of 1863.

XXI
of
1881.

(2) And nothing in the last preceding section shall apply to the property of any thakur to which section 28 of the Broach and Kaira Encumbered Estates Act, 1881, is applicable, or be deemed to affect the power of the manager of any thakur's immovable property under section 24 of the said Act.

Saving of sections 28 and 24 of Act XXI of 1881.

Bom.
V of
1879.

33. ⁵[(1) Nothing in sections 38 to 40, both inclusive, 44, 60 to 67, both inclusive, 76, 82, 85, 116, 117A, 127 to 134, both inclusive, 136, 163, 216 and 217 of the Bombay Land Revenue Code, 1879, shall be deemed to apply to any estate to which this Act extends.]

Applicability of the Bombay Land Revenue Code to taluqdars' estates.

(2) The provisions of the said Code when applied to any such estate shall be subject to the following modifications (namely):—

(a) in section 3, clause (1), the words "the Taluqdari Settlement-officer and every officer appointed by the ²[Provincial Government], to exercise any power or perform any duty under the Gujarat Taluqdars' Act, 1888, and" shall be inserted after the word "means";

¹ Nothing in s. 31 shall be deemed to apply to any incumbrance or alienation made before the passing of the Gujarat Taluqdars' (Amendment) Act, 1905 (Bom. 2 of 1905), by a mulgameti, who holds land directly from the Crown, except where his estate has been taken under management by a Government officer under Bom. 6 of 1888. See s. 2 (2), proviso, of that Act.

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ These words were added by s. 5 of the Gujarat Taluqdars' (Amendment) Act, 1905 (Bom. 2 of 1905).

⁴ The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

⁵ This sub-section was substituted by s. 94 (1) of the Bombay Land Revenue (Amendment) Act, 1913 (Bom. 4 of 1913).

(b) in section 54, the words "or under the Gujarat Taluqdars' Act, 1888", shall be inserted after the figures "136";

(c) in sections 46, 88, 89 and 94, the word "taluqdar" shall be substituted for the words "holder of alienated lands" and the word "holder", wherever they occur;

¹[(cc) to section 79A, clause (a), the words "which he uses or occupies in contravention of any of the provisions of the Gujarat Taluqdars' Act, 1888, or", shall be added;]

(d) in section 88, the clauses (c) to (f) and proviso shall be omitted;

(e) for section 111 the following section shall be deemed to be substituted, viz.:—

Revenue management of taluqdari estates which may be temporarily under Provincial Government management.

111. In the event of any taluqdar's estate coming under the temporary management of Government officers, it shall be lawful for the Collector, Taluqdari Settlement-officer, or other officer appointed by ²[the Provincial Government] in this behalf, subject, in any case to which it applies, to the proviso to section 29 of the Gujarat Taluqdars' Act, 1888, to let out the lands thereof at rates determined by means of a survey-settlement or at such other fixed rates as he may deem to be reasonable, and to ³[grant unoccupied lands on lease] and otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands not comprised within a taluqdar's estate, so far as such rules may be applicable and for so long as the said estate shall be under the management of Government officers:

Provided, however, that any written agreements relating to the land made by the taluqdar of such estate shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful ⁴[claims of the Crown] on the land; and provided also that, when the estate ceases to be under the management of Government officers, the possession and enjoyment thereof shall, except as is otherwise provided in section 29 of the Gujarat Taluqdars' Act, 1888, revert to the taluqdar, subject to the leases ⁵* * *, if any, granted under this section:

(f) ⁶* * * section 113 ⁷* * * shall be omitted;

(g) in section 147, the words "or under the Gujarat Taluqdars' Act, 1888," shall be inserted after the word "section";

(h) in section 150, clause (f), the word "alienated" shall be omitted;

(j) in section 160, the word "be" shall be substituted for the words ⁸[revert to the Crown];

(k) in section 162, the words "at any time within twelve years from the first day of August next after the attachment" shall be omitted;

¹ Clause (cc) was inserted by s. 6 of the Gujarat Taluqdars' (Amendment) Act, 1905 (Bom. 2 of 1905).

² The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

³ These words were substituted for the words "sell the occupancy of unoccupied lands by auction" by s. 94 (2) of the Bombay Land Revenue (Amendment) Act, 1913 (Bom. 4 of 1913).

⁴ The words "claims of the Crown" were substituted for the words "claims of Government" by the Adaptation of Indian Laws Order in Council.

⁵ The words "and occupancy rights" were repealed by the Bombay Land Revenue (Amendment) Act, 1913 (Bom. 4 of 1913).

⁶ The word "in" was repealed by s. 94 (3), *ibid.*

⁷ The word, figure and brackets "clause (3)" were repealed by s. 94 (3), *ibid.*

⁸ The words "revert to the Crown" were substituted for the words "revert to Government" by the Adaptation of Indian Laws Order in Council.

(l) in section 214, clause ¹[(h)] shall be omitted ;

(m) generally, the word " taluqdar " shall be substituted for the word " occupant " ; ²* * * * and the words " taluqdar's holding " or such words to that effect as may be required by the context, for the word " occupaney " .

And whereas it is also expedient to limit the period within which fresh estates may be subjected to the operation of Bombay Act VI of 1862 (*an Act for the amelioration of the condition of Taluqdars in the Ahmedabad Collectorate and for their relief from debt*) ; It is further enacted as follows :—

34. No new declaration shall be made under section 1 of the said Bombay Act VI of 1862 at any time after six months from the date on which this Act comes into force. Limitation of operation of Bombay Act VI of 1862.

¹ This letter was substituted for the letter " f " by s. 94 (4), of the Bombay Land Revenue (Amendment) Act, 1913 (Bom. 4 of 1913).

² The words " the words ' registered taluqdar ' for the words ' registered occupant ' " were repealed by s. 94 (5), *ibid.*